

CITY OF SAN JOSE – CEO, AFSCME LOCAL 101
TENTATIVE AGREEMENT*

TERM

July 1, 2013 – June 30, 2014

WAGES

2% General Wage Increase.

Effective June 23, 2013, all salary ranges for employees holding positions in classifications assigned to CEO shall be increased by approximately 2.0%.

HIGHER CLASS PAY

See Attached

EDUCATIONAL AND PROFESSIONAL INCENTIVES

See Attached

SICK LEAVE PAYOUT

See Attached

DISABILITY LEAVE SUPPLEMENT

See Attached

CALL BACK AND STANDBY PAY

See Attached

GRIEVANCE

See Attached

CONTRACTING OUT

See Attached

OVERTIME AND COMPENSATORY TIME

See Attached

**CITY OF SAN JOSE – CEO, AFSCME LOCAL 101
TENTATIVE AGREEMENT***

TENTATIVE AGREEMENTS

- Holidays – See Attached
- Voluntary Dues Deductions – See Attached
- Grievance Procedure – See Attached
- Health and Dental In Lieu – See Attached
- Citywide Labor Management Committee – See Attached
- Leaves of Absence – See Attached
- Safety – See Attached
- Layoff – See Attached

SIDE LETTER AGREEMENTS

- Public Transit – See Attached
- Retiree Healthcare Stakeholder Solutions Working Group and Negotiations – See Attached


REOPENERS

- Retiree Healthcare – The contract language contained in the agreement reached on June 11, 2013, shall be incorporated into the CEO Memorandum of Agreement.
- Notwithstanding any other provision of this Agreement, the parties agree to meet and confer over retirement benefits upon request of either party in the event that the pension modification ballot measure, also known as Measure B, in part or in whole, is declared invalid or otherwise modified or changed by any court of competent jurisdiction or any other administrative process, or by any applicable State or Federal law or regulation.

Negotiations between the City and CEO shall commence within 14 days upon notice from either party that any action referenced in the previous paragraph has occurred. The City and CEO shall negotiate in good faith in an effort to reach a mutual agreement. Applicable impasse dispute resolution procedures shall apply.

**** This agreement is considered tentative and shall not be considered final or binding until ratified by union members and approved by the City Council. This document sets forth the full agreements of the parties reached during these negotiations. Anything not included in this document is not part of the Tentative Agreement.***

FOR THE CITY:

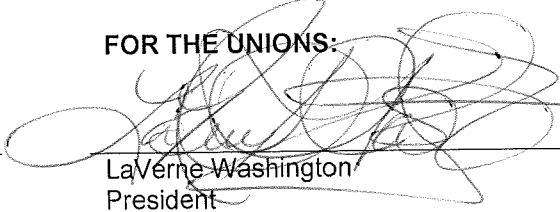


Alex Gurza
Deputy City Manager

7-3-13

Date

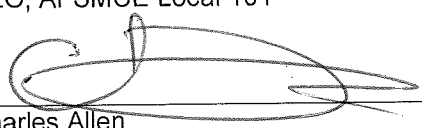
FOR THE UNIONS:



LaVerne Washington
President
CEO, AFSCME Local 101

7/3/13

Date

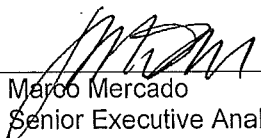


Charles Allen
Business Agent
AFSCME, Local 101

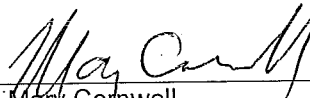
7/3/13

Date


CITY OF SAN JOSE – CEO, AFSCME LOCAL 101
TENTATIVE AGREEMENT*


Marco Mercado
Senior Executive Analyst

7.3.13
Date


Mary Cornwell
Vice President
CEO, AFSCME Local 101


7/3/13
Date


Elsa Pater
Executive Analyst


7/3/13
Date

not available to sign
Virginia Hixson
Team Member
CEO, AFSCME Local 101

Date


Arn Andrews
Team Member
City of San Jose

Date


Matt Cano
Team Member
City of San Jose

7/3/13
Date

not available to sign
David Hober
Team Member
City of San Jose

Date

not available to sign
Carrie Rank
Team Member
City of San Jose

Date

CITY PROPOSAL #4 – HIGHER CLASS PAY

City Proposed Language:

7.3 Working in a Higher Classification

7.3.1 Upon specific assignment by the Department Director, or his/her designated representative, with prior written approval, a full-time or part-time employee may be required to perform the duties of a full-time or benefited part-time position in a higher classification. Such assignments may be made to existing authorized positions that are not actively occupied due to the temporary absence of the regularly appointed employee or vacant positions. Assignments to a higher classification due to a vacancy shall not exceed six (6) months. Once an employee reaches the six (6) month maximum in a specific higher class assignment due to a vacancy, the employee shall not be eligible to serve in the same higher class assignment for at least six (6) months and shall return to his/her regular assignment.

7.3.1.1 By mutual written agreement between the City and the Employee Organization Union, an employee assigned to work in a higher classification may be extended in his/her specific assignment past the aforementioned six (6) month limitation.

7.3.2 Employees specifically assigned to duties of a higher classification shall be compensated at the rate in the salary range of the higher class which is at least five percent (5%) one (1) salary rate (step) higher in the salary range schedule than the rate received by the employee in the employee's present class. Notwithstanding any other provision of this section, in no event shall an employee receive any amount in excess of the top of the salary range of the higher classification. The employee shall not receive any compensation, however, unless the assignment is for a minimum of twenty-four (24) cumulative work hours within one (1) pay period and a minimum of four (4) consecutive work hours within one (1) day. In the event the assignment is for a minimum of twenty-four (24) cumulative work hours within one (1) pay period and a minimum of four (4) consecutive work hours within one (1) day, the employee shall be compensated at the appropriate rate for all the eligible hours worked in the higher class within the pay period.

7.3.3 Employees assigned to the duties of a higher classification due to a vacancy, and not due to the temporary absence of an employee, shall be compensated at the rate in the salary range of the higher class, pursuant to section 7.3.2. above, for City observed holidays.

7.3.4 Upon request by the Union, the City will provide a report, no more than quarterly, of the employees working in a higher class pay assignment.

UNION PROPOSAL #9 – EDUCATIONAL AND PROFESSIONAL INCENTIVES

City Counterproposal:

ARTICLE 7 WAGES AND SPECIAL PAY

7.14 Educational and Professional Incentives

7.14.1 The City will reimburse each employee 100% of expenses incurred, up to \$1,000 per fiscal year, for registration, tuition, fees, and textbooks for college accredited courses which are either related to or beneficial for the employee's current position or related to or beneficial for a lateral transfer, promotion or other career opportunity within the City service as approved by the Department Director or designee. Of the \$1,000 amount, up to ~~\$400.00~~ 500.00 may be used for non-college accredited courses, Continuing Education Units, Adult Education Classes, workshops, membership dues in professional associations, professional licenses, and professional certificates which are either related to or beneficial for the employee's current position or related to or beneficial for a lateral transfer, promotion or other career opportunity within the City service, as approved by the Department Director or designee. City Policy Manual Section – Education Reimbursement outlines additional details of the program.

CITY PROPOSAL #18 – SICK LEAVE PAYOUT

City Proposed Language:

- 18.2 Any employee hired on or after September 30, 2012, shall not be eligible for sick leave payout.
- 18.3 Upon a release of claims provided by the City and signed by the retiree, retroactive payments shall be made to eligible employees in the Federated City Retirement System, who retired on or after January 1, 2012, and before the date that this proposal is ratified and approved by the City Council, who were eligible for a sick leave payout at the time of their retirement under the requirements contained herein and did not receive the payout because the payouts were eliminated prior to their retirement. Retirees will be eligible for a payout of the amount of unused sick leave hours accrued as of December 31, 2011, or the date of their retirement, whichever is less. Payouts will be based on the provisions contained in Sections 18.5 and 18.6 below. This will resolve any claims related to sick leave payout upon retirement, including but not limited to:-
- 18.3.1 Unfair Practice Charge No. SF-CE-945-M: The parties agree that the foregoing resolves the issues underlying unfair practice charge no. SF-CE-945-M filed by AFSCME with the Public Employment Relations Board on or about March 15, 2012; therefore, AFSCME agrees to withdraw the charge no later than sixty (60) calendar days after the execution of this agreement.
- 18.3.2 Case No. 1-12-CV-237150: The parties also agree that the foregoing resolves the issues underlying Case No. 1-12-CV-237150 filed by AFSCME with the Santa Clara County Superior Court of the State of California; therefore, AFSCME agrees to file a dismissal with prejudice to dismiss the City as a defendant from Case No. 1-12-CV-237150 no later than sixty (60) calendar days after the execution of this agreement.
- 18.4 For employees hired on or before September 29, 2012, a sick leave payout shall be made to full-time and part-time benefitted employees who are members of the Federated City Retirement System at the time of retirement or death under one of the following scenarios:
- 18.4.1 Federated Retirement Plan. The employee is: a) a member of the Federated Retirement Plan, and; b) retired under the provisions cited in the plan, and; c) credited with at least 15 years of service in this retirement plan, or; d) credited with at least 10 years of service prior to a disability retirement.
- 18.4.2 Terminated Employee with Vesting Rights. The employee has terminated service with the City in good standing, retained vesting rights in a retirement system according to provisions in the San José Municipal Code, and following such termination, qualifies for retirement and retires under the provisions cited in the code and has at the time of retirement credit for at least fifteen (15) years of service in the applicable retirement plan.

2013 CITY OF SAN JOSE – CEO NEGOTIATIONS

18.4.3 Death During Service. The estate of any full-time employee who dies while in City service and prior to retirement, even though the employee is not credited with at least 15 years of service in any applicable retirement plan.

18.4.4 Death of Terminated Employee. The estate of any full-time or eligible part-time employee who had terminated service with the City in good standing but had retained vesting rights in a retirement system according to provisions in the San José Municipal Code, and dies (on or after July 10, 1977) prior to becoming eligible for retirement allowances as cited under provisions of the San José Municipal Code, and has at the time of death credit for at least fifteen (15) years of service in the applicable retirement plan.

18.5 Effective June 22, 2013, for purposes of calculating a sick leave payout, employees' sick leave balances and hourly rates shall be frozen. This means that an employee will receive no more for a sick leave payout, after having met the requirements set forth above, than he or she would have been entitled to on June 22, 2013. Any sick leave usage after June 22, 2013, will come first from the sick leave balance accrued after June 22, 2013. An employee will continue to accrue sick leave after June 22, 2013, but it may not be used for sick leave payout purposes.

For example, if an employee's hourly rate is \$20 and his or her sick leave balance is 250 hours on June 22, 2013, then if he or she meets the eligibility requirements contained herein, the payout of a sick leave balance at the time of retirement will be based on the formula below, and shall be based on no more than 250 hours and an hourly rate of no more than \$20. This will occur even if the employee has subsequently earned more than 250 hours in sick leave or received a pay increase to an hourly rate higher than \$20. In this example, if the employee does not have available sick leave to use that was accrued after June 22, 2013, and uses sick leave and reduces their sick leave balance on June 22, 2013, to 50 hours, they will only be entitled to a sick leave payout of 50 hours, regardless of any sick leave accrued after June 22, 2013. This means that if sick leave payout hours are reduced by usage, they are not able to be re-established in the sick leave balance subject to payout.

18.6 Payout shall be determined as follows.

18.6.1 Payout shall be determined as follows: If a full-time or eligible part-time employee at the time of retirement or death has earned unused sick leave hours, the employee or Estate shall be paid the equivalent of a specified percent of their hourly rate of pay as of June 22, 2013, multiplied by the total number of accumulated and unused hours of sick leave as of June 22, 2013 (minus any sick leave hours as of June 22, 2013, which were used), as follows:

<u>18.6.2 Less than 400 hours -</u>	<u>Hours accumulated x 50% of final hourly rate;</u>
<u> or 400 - 799 hours -</u>	<u>Hours accumulated x 60% of final hourly rate;</u>
<u> or 800 - 1200 hours -</u>	<u>Hours accumulated x 75% of final hourly rate.</u>

- 18.7 Use of previously accumulated sick leave hours. For purposes of determining the total number of accumulated and unused hours of sick leave of a full-time employee at the time of retirement or death, unused sick leave from prior periods of employment before June 22, 2013, with the City shall be used. However, previously accumulated sick leave shall be credited to the employee for use during an employee's current employment period.

CITY PROPOSAL #12– DISABILITY LEAVE

City Proposed Language:

19.1 Disability Leave Supplement

Disability Leave Supplement (DLS) is the benefit provided pursuant to this Article, which, when added to Worker's Compensation Temporary Disability (WCTD) results in providing employees 85% of their regular base salary. Effective July 7, 2013, employees shall no longer be eligible to receive DLS.

19.10 Integration. After the maximum time limit specified in Article 19.6, and effective July 7, 2013, the integration of an employee's available leave will occur in the following order: (1) accrued Vacation hours, (2) earned Compensatory Time once Vacation has been exhausted, and (3) accrued Sick Leave once Vacation and Compensatory Time have both been exhausted.

- In no event shall an employee receive an amount, including Workers' Compensation Temporary Disability payments, in excess of an employee's regular base salary.

UNION PROPOSAL #10 – CALL BACK AND STANDBY PAY

City Counterproposal:

ARTICLE 7 WAGES AND SPECIAL PAY

7.10 Standby Pay

Employees who are required to perform standby duty shall be credited with one hour compensation at the appropriate rate (1.5) for each eight (8) hour shift or portion thereof the employee performs standby duty. In the event the employee is called back to work, the employee shall be entitled to the compensation provided by Section 7.11, in lieu of the one hour of standby compensation for that eight (8) hour shift.

7.10.1 Standby pay is not deemed as actual hours worked for the purpose of calculating eligibility for overtime.

7.11 Call Back

An employee who is called back and reports to work in response to an emergency or other unforeseen circumstance shall be credited for the time worked, or for three (3) hours, whichever is greater, at the appropriate rate (1.5). This section shall apply on either a work day after the employee has left work or on a day off. It shall not apply to scheduled overtime or during a regular shift. ~~No employee shall be entitled to more than one (1), three (3) hour minimum call back per eight (8) hour shift. Compensation for subsequent call backs shall be for actual time worked.~~ Employees who are called back multiple times during a standby shift shall not receive additional pay until the employee has worked a total of three hours, after which time the employee would be eligible for additional pay, but only for actual hours worked.

7.11.1 To the extent possible, when an employee has worked in excess of sixteen (16) hours, upon request by the employee, the Department Director or designee may approve time off using an employee's available leave, excluding sick leave, to provide the employee with a rest period prior to their next shift.

UNION PROPOSAL #4 – GRIEVANCE PROCEDURE

City Counterproposal:

ARTICLE 12 GRIEVANCE PROCEDURE

12.3 STEP I

12.3.1 An employee may present the grievance orally either directly or through the Employee Organization representative to the immediate supervisor. The grievance must be presented within ~~ten (10)~~twenty one (21) working calendar days following the event or events on which the grievance is based. The immediate supervisor shall make whatever investigation is necessary to obtain the facts pertaining to the grievance. Within ~~ten (10)~~twenty one (21) working calendar days after receiving the oral grievance, the immediate supervisor shall give the employee an oral reply.

12.3.2 If the employee is not satisfied with the reply of his/her immediate supervisor, he/she may appeal the grievance to Step II.

UNION PROPOSAL #12 – CONTRACTING OUT AND VOLUNTEERS

City Counterproposal:

ARTICLE 1, RECOGNITION

1.1 Pursuant to Resolution No. 39367 of the City Council of the City of San Jose and the provisions of applicable state law, the Confidential Employees' Organization, Local 101, AFSCME, AFL-CIO, hereinafter referred to as the Employee Organization is recognized as the exclusive representative for the purpose of meeting and conferring on matters within the scope of representation for employees assigned to the classifications listed in Exhibit I attached and incorporated by reference into this Agreement. The classifications listed in Exhibit I and subsequent additions thereto or deletions therefrom shall constitute an appropriate unit.

~~1.2 The City agrees to meet and confer with the Employee Organization prior to contracting out work currently performed by bargaining unit members whenever such contracting out would result in material reduction of work done by bargaining unit members or would have significant adverse impact on bargaining unit work. It is agreed that position reductions which result in lay-off of employees in the bargaining unit constitute significant impact on bargaining unit work.~~

ARTICLE 38 CONTRACTING OUT

~~38.1 The City agrees to meet and confer with the Employee Organization prior to contracting out work currently performed by bargaining unit members whenever such contracting out would result in material reduction of work done by bargaining unit members or would have significant adverse impact on bargaining unit work. It is agreed that position reductions which result in lay-off of employees in the bargaining unit constitute significant impact on bargaining unit work.~~

UNION PROPOSAL #13 – OVERTIME AND COMPENSATORY TIME

City Counterproposal:

ARTICLE 6 HOURS OF WORK AND OVERTIME

6.6.1. To the extent possible and with the exception of any shift changes, when a non-benefited part-time employee has worked six (6) consecutive days, the employee, in so much as possible, shall be provided with one (1) scheduled day off. Nothing herein contained, however, shall limit the right of the Department Director or designee to determine the days of the week and hours of each day when any such part-time non-benefited employee shall be required to work, or whether such part-time non-benefited employee shall work at all.

T.A.
2013 CITY OF SAN JOSE – CEO NEGOTIATIONS

CITY PROPOSAL #15 – HOLIDAYS

City Proposed Language:

ARTICLE 16 HOLIDAYS

16.1 Except as hereinafter otherwise provided, each full-time employee who is on paid status before and after the holidays specified below shall be entitled to paid holiday leave on each of the following holidays as observed, and on no other day, during the term of this Agreement:

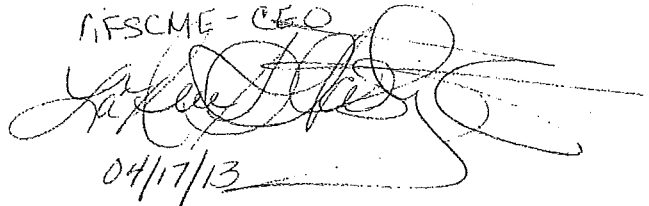
16.1.1 New Years Day
Martin Luther King Day
President's Day
Cesar Chavez Day
Memorial Day
Independence Day
Labor Day

Columbus Day
Veterans Day
Thanksgiving Day
Day after Thanksgiving
Christmas Eve
Christmas Day
New Year's Eve Day

CITY:

ALEX GUTZ
4-17-13

AFSCME - CEO


04/17/13



CHARLES ALLEN

4/17/13

**2013 CITY OF SAN JOSE – CEO NEGOTIATIONS
TENTATIVE AGREEMENT**

UNION PROPOSAL #1 – DUES AND AGENCY FEE DEDUCTIONS


City Counterproposal:

8.1 The City will deduct from the pay of each employee covered by this Agreement, while such employee is assigned to a classification included in a representation unit represented by the Employee Organization, dues uniformly required as a condition of membership, pursuant to the Employee Organization's constitution and by-laws provided that the employee has signed an appropriate Authorized Dues Deduction card. Such authorization shall be on a form approved by the Municipal Employee Relations Officer.

8.1.1 The City agrees to deduct from the pay of each employee covered by this Agreement, while such employee is assigned to a classification included in a representation unit represented by the Union, voluntary deductions in addition to those described in Section 8.1, provided that the employee has submitted written authorization for such additional voluntary deductions on an appropriate Authorized Dues Deduction card to the Municipal Employee Relations Officer or designee. Such additional voluntary deductions shall continue unless the employee provides written notice to the Municipal Employee Relations Officer or designee to cease the additional voluntary deductions.

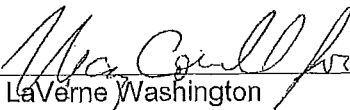
**This agreement is considered tentative and shall not be considered final or binding until a final agreement on all terms has been reached and both ratified by union members and approved by the City Council.*

FOR THE CITY:

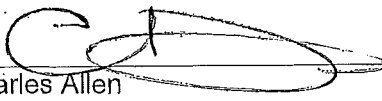
 5-15-13

Alex Gurza Date
Deputy City Manager

FOR THE UNIONS:

 5/15/13

LaVerne Washington Date
President
CEO, AFSCME Local 101

 5/15/13

Charles Allen Date
Business Agent
AFSCME, Local 101

2013 CITY OF SAN JOSE – CEO NEGOTIATIONS
TENTATIVE AGREEMENT

UNION PROPOSAL #4 – GRIEVANCE PROCEDURE

City Counterproposal:

12.1 Any dispute between the City and an employee, or, where provided, the appropriate representative of the ~~Employee Organization~~ Union, regarding the interpretation or application of the written Memorandum of Agreement, or the interpretation or application of the Employer-Employee Resolution No. 39367, as amended, shall be considered a grievance. A grievance may be initiated only by the employee directly affected except as otherwise provided herein. Where the dispute directly affects a significantly large group of employees in the representation unit, the appropriate ~~Employee Organization~~ Union may file a grievance on behalf of such employee(s).

12.6.3 The parties may mutually agree upon the selection of the arbitrator or shall jointly request the State of California Mediation and Conciliation Service to provide a list of seven (7) persons qualified to act as arbitrators. Any costs associated with the mutually agreed upon joint request for a list of persons qualified to act as arbitrators from the State of California Mediation and Conciliation Service shall be divided equally between the parties. The City will process the joint request after receiving the Union's share of the cost for obtaining the list.

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FOR THE CITY:

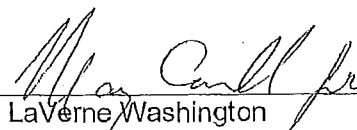


Alex Gurza
Deputy City Manager

5-15-13

Date

FOR THE UNIONS:



Laverne Washington
President
CEO, AFSMCE Local 101

5/15/13

Date



Charles Allen
Business Agent
AFSCME, Local 101

5/15/13

Date

2013 CITY OF SAN JOSE – CEO NEGOTIATIONS
TENTATIVE AGREEMENT

CITY PROPOSAL #13 – HEALTH/DENTAL IN LIEU

City Proposed Language:


ARTICLE 7 WAGES AND SPECIAL PAY

7.9.3 The payment-in-lieu of health and/or dental insurance program is available to full-time employees who are not on a reduced workweek of less than thirty-five (35) regular work hours per week or unpaid leave and have alternate group health and/or dental coverage. To qualify, an employee must provide proof of alternate group coverage to Human Resources. Alternate coverage must be acceptable by the City.

7.9.5 Payments for the in-lieu insurance program will be discontinued if an employee becomes ineligible for the program. An employee's ineligible status would include but not be limited to the following situations: employment status changes from full to part time, employee is on an unpaid leave of absence, employee is on a reduced work week of less than thirty-five (35) regular work hours per week, or employee loses or does not have alternate insurance coverage. An employee whose in-lieu payments are discontinued may enroll, if eligible, in a health and/or dental plan during the next annual open enrollment period.

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FOR THE CITY:

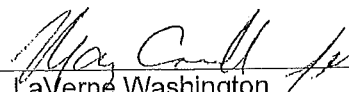


Alex Gurza
Deputy City Manager

5-15-13

Date

FOR THE UNIONS:



LaVerne Washington
President
CEO, AFSMCE Local 101

5/15/13

Date



Charles Allen
Business Agent
AFSCME, Local 101

5/15/13

Date

**2013 CITY OF SAN JOSE – CEO NEGOTIATIONS
TENTATIVE AGREEMENT**

UNION PROPOSAL #11 – CITY-WIDE LABOR MANAGEMENT COMMITTEE


City Counterproposal:

12.11 City-Wide Labor Management Committee

- 12.11.1 Purpose. To provide regular communication between the Union and the City, to solve workplace issues, to provide training for and support to the departmental labor management committees, and to facilitate positive Union-management relations.
- 12.11.2 Structure. Management shall include up to two representatives from Employee Relations and one representative from Human Resources. Labor shall include two Officers and one Business Agent. Additional representatives may be requested to participate on specific issues. Issues for discussion and the meeting schedule will be mutually agreed upon. Decision-making will be by consensus.
- 12.11.3 Authority. The City-Wide Committee will coordinate and provide training and support to department labor management committees as requested, and shall address city-wide issues. The City-Wide Labor Management Committee is authorized to enter into tentative agreements pending usual authority and/or ratification processes. This process is not designed or intended to address individual grievances, review personnel issues, appeal disciplines, replace the steward system, or appeal decisions of department Labor Management Committees.
- 12.11.4 Release Time. The City will provide up to two (2) hours of paid release time for up to two (2) Union representatives for the purpose of preparing for and attending the City-Wide Labor Management Committee meeting, when such meetings are scheduled.

**This agreement is considered tentative and shall not be considered final or binding until a final agreement on all terms has been reached and both ratified by union members and approved by the City Council.*

FOR THE CITY:

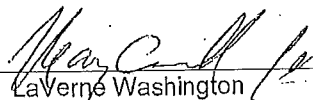


Alex Gurza
Deputy City Manager

5-15-13

Date


FOR THE UNIONS:



LaVerne Washington
President
CEO, AFSCME Local 101

5/15/13

Date



Charles Allen
Business Agent
AFSCME, Local 101

5/15/13

Date

**2013 CITY OF SAN JOSE – CEO NEGOTIATIONS
TENTATIVE AGREEMENT**

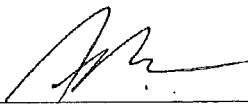
CITY PROPOSAL #8 – LEAVES OF ABSENCE

City Proposed Language:

- 13.6 Any employee who is absent without notification to his/her Department Director, or other designated authority, for two (2) consecutive work shifts, shall be considered a voluntary resignation, unless the failure to report is due to extenuating circumstances beyond the control of the employee. An employee will be considered to be absent without notification pursuant to this Section, if notification is not provided by the beginning of the commencement of the second consecutive shift.

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FOR THE CITY:

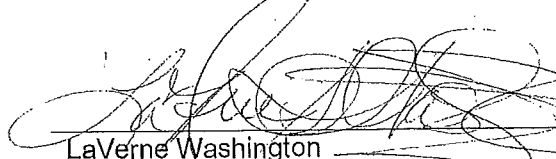


Alex Gurza
Deputy City Manager

5-23-13

Date

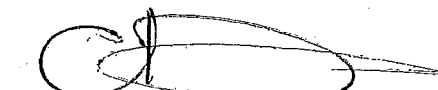
FOR THE UNIONS:



LaVerne Washington
President
CEO, AFSMCE Local 101

5/23/13

Date



Charles Allen
Business Agent
AFSCME, Local 101

5/23/13

Date

2013 CITY OF SAN JOSE – CEO NEGOTIATIONS
TENTATIVE AGREEMENT

UNION PROPOSAL #2 – SAFETY

City Counterproposal:

- 11.1 The City shall provide a safe and healthy working environment in accordance with applicable State and Federal laws and regulations. The Employee Organization agrees that where safety devices or protective equipment is required or furnished, its use shall be mandatory.
- 11.2 An employee who believes their work assignment is unsafe or believes a safety violation exists and for that reason refuses to perform such assignment, will first report such unsafe conditions to their immediate supervisor and try and resolve it at that level. The employee may at any time request that a union representative be present for any part of the process. ~~shall be assigned other duties, if other duties are available, and no other employee shall be assigned the work assignment in dispute until after a determination has been made by the City's Safety Officer. If no other duties are available, the employee shall be placed on a leave of absence without pay, pending the above determination. Prior to being placed on such leave, however, the employee may request the presence of the appropriate Union representative.~~
- 11.3 If the employee is not satisfied with the response of the immediate supervisor, the employee may request that the City make a determination as to the safeness of the work assignment in accordance with Cal/OSHA regulations. If the City is asked to make a determination, an employee will be assigned other duties if other duties are available while an investigation is underway. If no other duties are available, the employee may be placed on a leave of absence without pay, pending the above determination. No other employee shall be assigned the work assignment in dispute until after a determination is made by the City's designated safety official. The employee's immediate supervisor shall immediately request the City's Safety Officer to make a determination as to the safety of the work assignment in question. If the assignment is determined to be unsafe, the employee shall be reimbursed for any time lost due to the refusal to perform. If the employee disagrees with the determination of the City's Safety Officer and continues to refuse to perform the assignment, he/she shall be assigned other duties, if such other duties are available, and a prompt request for a determination by the Department of Industrial Safety of the State of California shall be made. Pending such determination, the assignment shall not be given to another employee. If no other duties are available, the employee shall be placed on a leave of absence without pay, pending the determination of the Department of Industrial Safety. If the assignment is determined to be unsafe, the employee shall be reimbursed for any time lost due to refusal to perform. The determination by the Department of Industrial Safety of the safety or lack of safety of the work assignment shall not be subject to the grievance procedure.
- 11.4 No provisions of this Article shall be subject to the grievance procedures of this Agreement. If the Union is not satisfied with the City's determination, the Union can request to meet with the Office of Employee Relations to discuss the City's determination.
- ~~11.4 Upon request of either the employee or the representative of the Department of Industrial Safety, the appropriate Employee Organization representative shall be~~

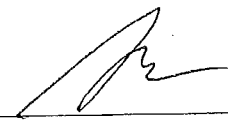
**2013 CITY OF SAN JOSE – CEO NEGOTIATIONS
TENTATIVE AGREEMENT**

~~permitted to accompany the City Safety Officer, or the representative of the Division of Industrial Safety, or both, during the inspections of the questioned work assignment. Neither the employee or the appropriate Employee Organization representative shall suffer any loss of compensation for time involved in the inspections of the questioned work assignment during their respective regularly scheduled working hours. In no event shall overtime or premium pay be paid for any time spent in such inspections.~~

~~11.5 As used herein, the term "City Safety Officer" shall include any person designated to act as such.~~

**This agreement is considered tentative and shall not be considered final or binding until a final agreement on all terms has been reached and both ratified by union members and approved by the City Council.*

FOR THE CITY:

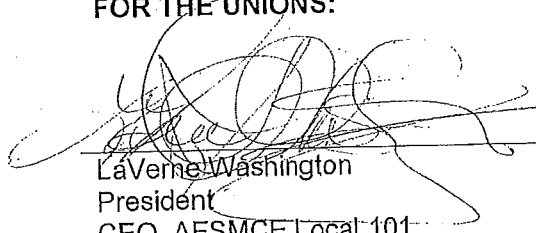


Alex Gurza
Deputy City Manager

5-23-13

Date

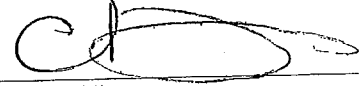
FOR THE UNIONS:



LaVerne Washington
President
CEO, AFSCME Local 101

5/23/13

Date



Charles Allen
Business Agent
AFSCME, Local 101

5/23/13

Date

2013 CITY OF SAN JOSE – CEO NEGOTIATIONS
TENTATIVE AGREEMENT

UNION PROPOSAL #3 – LAYOFF

City Counterproposal:

14.1 Order of Layoff

When one (1) or more employees in the same class in a City department are to be laid off for lack of work, purposes of economy, curtailment of positions or other reason, the order of layoff shall be as follows:

14.1.1 Provisional employees in the order to be determined by the appointing authority.

14.1.2 Probationary employees in the order to be determined by the appointing authority.

14.1.3 Permanent employees in inverse order of seniority within the classification being reduced, or in a higher class.

14.1.3.1 The City will notify the Union within three (3) working days when a new or updated seniority list for each and every classification pertaining to any employee(s) represented by the Union has been posted or updated. The determination of seniority based on Sections 14.1.3.2 and 14.1.3.3, if applicable, shall be made prior to the publication of a seniority list.

14.1.3.2 If two or more permanent employees have the same class seniority, then ranking is based on Citywide seniority.

14.1.3.3 If two (2) or more permanent employees have the same class and the same Citywide seniority, then ranking is based on the scores on the eligible list that was used for the original hiring in the classification or the quantitative examination scores used for the original hiring in the classification. In the absence of eligible list scores or quantitative examination scores used in the original hiring, ranking on the seniority list shall be determined as follows:

(a) The sum total of the last four (4) digits of the employee's social security number will determine seniority, with the lowest sum total being the least senior and the highest sum total being the most senior on the established list.

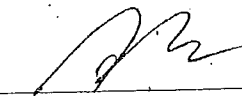
(b) In the event that the sum total of the last four (4) digits of the employee's social security number should result in a tie, a random draw shall be conducted consisting only of the employees with the sum total tie. The first drawn name will be the least senior and the last name drawn will be the most senior on the established list.

14.1.4 Permanent employees shall be given every opportunity for transfer to other departments when layoff is pending.

**2013 CITY OF SAN JOSE – CEO NEGOTIATIONS
TENTATIVE AGREEMENT**

**This agreement is considered tentative and shall not be considered final or binding until a final agreement on all terms has been reached and both ratified by union members and approved by the City Council.*

FOR THE CITY:

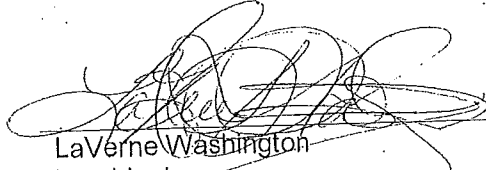


Alex Gurza
Deputy City Manager

6-6-13

Date

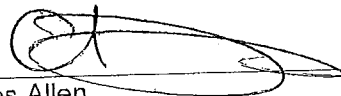
FOR THE UNIONS:



LaVerne Washington
President
CEO, AFSMCE Local 101

6/6/13

Date



Charles Allen
Business Agent
AFSCME, Local 101

6/6/13

Date

SIDE LETTER AGREEMENT

BETWEEN

THE CITY OF SAN JOSE

AND

THE CONFIDENTIAL EMPLOYEES' ORGANIZATION, AFSCME LOCAL 101

Sustainable Transportation Incentive


The City and the Confidential Employees' Organization, (CEO), AFSCME Local 101, ("the Union") agree to continue discussing programs that provide subsidies for public transit which could be available to employees. Discussions shall include, but not be limited to, EcoPass, regional commuter assistance and pre-tax transit programs.

Either the City or the Union may provide notice to the other of its request to discuss programs that provide subsidies for public transit that could be available to employees. Upon such notice, the parties shall continue these discussions within ten (10) calendar days after the City or the Union receives notice from the other.

Agreeing to continue discussing programs that provide subsidies for public transit does not guarantee that any of the programs discussed will be adopted and/or implemented by the City. There are currently no funds designated for these programs.

This Agreement is tentative and shall become effective only as part of the overall agreement on, and only during the term of, any agreement reached between the City and the Union.

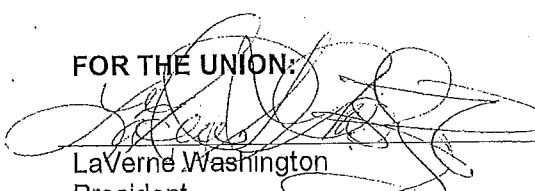
FOR THE CITY:


Alex Gurza
Deputy City Manager

Date

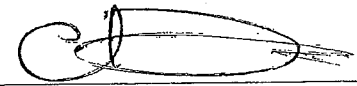
5-23-13

FOR THE UNION:


LaVerne Washington
President
CEO, AFSCME Local 101

Date

5/23/13


Charles Allen
Business Agent
AFSCME, Local 101

Date

5/23/13

Side Letter Agreement

RETIREE HEALTHCARE STAKEHOLDER SOLUTIONS WORKING GROUP AND NEGOTIATIONS

PURPOSE

The parties recognize the importance of funding the current retiree healthcare benefit, and since 2009, have been increasing contributions into the plan in order to begin paying the full Annual Required Contribution to ensure funding of the retiree healthcare benefit.

Neither the City nor the bargaining units have committed to close the plan. However, new employees will not enter the existing retiree healthcare plan. Since current employees share in paying the unfunded liabilities of the current retiree healthcare benefit, new employees who are not in the current plan would not be making those payments. The City has agreed to make the contributions towards the unfunded liabilities that those new employees would have paid had they been in the current plan. The City has agreed to do so in order to allow time for long-term solutions to be developed by a Retiree Healthcare Solutions Working Group ("Working Group") and negotiations.

The goal of the Working Group shall be to develop options that lead to long-term solutions to the retiree healthcare issue.

The City and the Coalition¹ have agreed to immediately continue working on solutions to retiree healthcare both through the Working Group and subsequent negotiations. The parties are committed to working collaboratively towards long-term solutions and have agreed to remain open to considering various options. The options considered will include, but are not limited to, the following:

- Using high-deductible healthcare plans in combination with individual health savings accounts;
- Limitations on the current retiree healthcare benefit in combination with individual health savings accounts;
- Tiered healthcare benefit structures based on length of employment;
- Modification of eligibility requirements;
- Health plan design and rate structure changes;
- Incentives for employees to work beyond normal retirement eligibility; and
- The inclusion or exclusion of new employees in any modifications, or the formation of a completely different plan for new employees.

¹ The San Jose Federated Labor Coalition consists of the following nine (9) bargaining units: Association of Building, Mechanical, and Electrical Inspectors (ABMEI), Association of Engineers and Architects (AEA), Association of Legal Professionals (ALP), Association of Maintenance Supervisory Personnel (AMSP), City Association of Management Personnel (CAMP), Confidential Employees' Organization (CEO), International Brotherhood of Electrical Workers (IBEW), Municipal Employees' Federation (MEF) and International Union of Operating Engineers, Local #3 (OE#3).

RETIREE HEALTHCARE STAKEHOLDER SOLUTIONS WORKING GROUP

Facilitator:

By August 1, 2013, the City and the Coalition members will mutually agree on an independent person or entity that is knowledgeable in the area of retiree healthcare benefits to facilitate the Working Group.

The facilitator will facilitate the discussions, provide information to the parties, and generally assist in the development of options for long-term solutions. Upon the mutual agreement of the City and Coalition members, other subject matter experts may be engaged to assist in analyzing possible solutions.

The costs of the facilitator and any subject matter experts will be shared equally between the City and the Coalition members.

Participation:

In addition to the City and a representative from each bargaining unit in the Coalition, members of the Working Committee will include a representative of the retirees, and any unrepresented employee group(s).

Meetings:

The City and the Coalition will jointly schedule Working Group sessions in coordination with the facilitator. More frequent and longer Working Group sessions will be scheduled in the early stages of the process. The Working Group sessions will be open to employees and the public.

TIMELINE FOR RETIREE HEALTHCARE SOLUTIONS WORKING GROUP AND NEGOTIATIONS:


The Working Group shall agree upon a facilitator no later than August 1, 2013. The time period to schedule Working Group sessions will be from August 1, 2013, and conclude no later than December 31, 2013, unless the parties mutually agree to extend the timeframe. The City and the Coalition agree that this process will not supplant the meet and confer process regarding retiree healthcare.

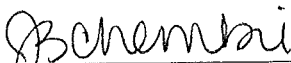
Negotiations between the City and the bargaining units shall commence within 14 days upon notice of either party, but no earlier than January 1, 2014. The City and the bargaining units shall negotiate in good faith in an effort to reach a mutual agreement. Applicable impasse dispute resolution procedures shall apply. The parties intend to meet and confer through coalition bargaining. However, all parties reserve their respective rights to withdraw from coalition bargaining. In such an event, the City and any bargaining unit that withdraws from the Coalition will bargain separately.


Side Letter Agreement
Retiree Healthcare Stakeholder Solutions Working Group and Negotiations

This Side Letter Agreement is considered part of the tentative agreement on retiree healthcare with the bargaining units and shall become effective only as part of the overall retiree healthcare agreement. Each bargaining unit conducts separate ratification processes, and this Side Letter Agreement shall be effective for those bargaining units who ratify the overall tentative agreement on retiree healthcare and only during the term of those agreements with each respective bargaining unit.

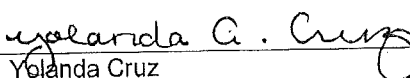
FOR THE CITY:



Alex Gurza
Deputy City Manager
6-11-13
Date


Jennifer Schembri
Deputy Director of Employee Relations
6/11/13
Date

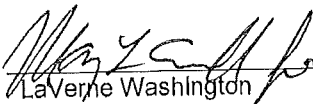

Cheryl Parkman
Executive Analyst
Office of Employee Relations
6/11/13
Date

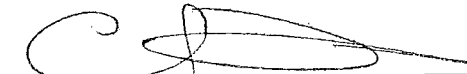
FOR THE UNION:


Yolanda Cruz
President
MEF, AFSCME Local 101
6/10/13
Date

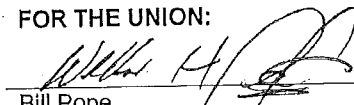

Charles Allen
Business Agent
AFSCME, Local 101
6/10/13
Date

FOR THE UNION:

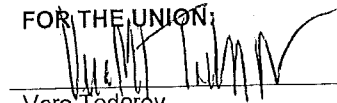

LaVerne Washington
President
CEO, AFSCME Local 101
6/10/13
Date


Charles Allen
Business Agent
AFSCME, Local 101
6/10/13
Date

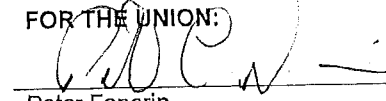
FOR THE UNION:


Bill Pope
Business Representative
Operating Engineers, Local 3
Date

FOR THE UNION:

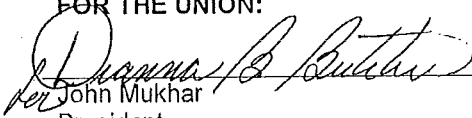

Vera Todorov
President
ALP
6/13/13
Date

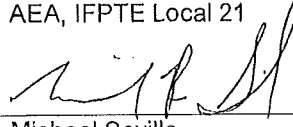
FOR THE UNION:


Peter Fenerin
President
ABMEI
6/10/13
Date

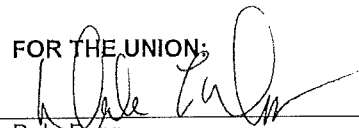
Side Letter Agreement
Retiree Healthcare Stakeholder Solutions Working Group and Negotiations

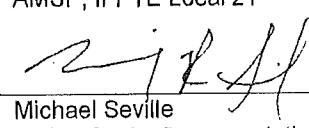
FOR THE UNION:

 6/10/13
for John Mukhar
President
AEA, IFPTE Local 21
Date

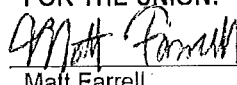
 6/10/13
Michael Seville
Acting Senior Representative
IFPTE, Local 101
Date

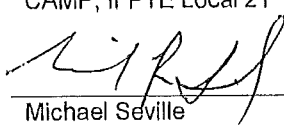
FOR THE UNION:

 6/10/2013
Dale Dapp
President
AMSP, IFPTE Local 21
Date

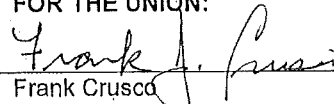
 6/10/13
Michael Seville
Acting Senior Representative
IFPTE, Local 101
Date

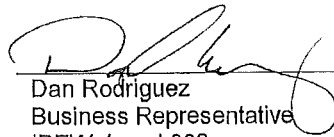
FOR THE UNION:

 6/10/2013
Matt Farrell
President
CAMP, IFPTE Local 21
Date

 6/10/13
Michael Seville
Acting Senior Representative
IFPTE, Local 101
Date

FOR THE UNION:

 6-10-13
Frank Crusco
Chief Steward
IBEW, Local 332
Date

 6/10/13
Dan Rodriguez
Business Representative
IBEW, Local 332
Date